

REMARKS

Claims 26, 27, 29, and 62-77 were pending in the present application. By virtue of this response, claims 26, 62, 73, and 74 have been amended. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

As an initial matter, Applicants acknowledge and appreciate the Examiner's indication that claims 69-72 are allowable over the art of record.

In the Office Action, the Examiner rejected claims 62-67 due to insufficient antecedent basis for the limitation "the first and the second strut" in line 5 of claim 62. Claim 62 has been amended to recite first and second strut "sections," thereby complying the the Examiner's suggestion. In addition, although claims 74-77 were not rejected, claim 74 has been amended to reconcile the recitation of a "membrane" in line 2 of the claim.

Turning to the rejections of claims under section 102, all claims other than claims 69-72 have been amended to recite an anchor and associated suture that includes "a fastener" as a component of a suture tensioning assembly, as illustrated in Fig. 6 and as described in paragraphs 0060 to 0065. The fastener is recited to be "translatably coupled to said suture and configured to retain a tensioning force on said suture." As described in the specification, the translatable fastener is used to apply a desired amount of tension to a suture – i.e., "Tension may be controlled by the ability of the sutures to tighten to a specific load." (Specification paragraph 0065). This adjustable tensioning feature is beneficial for tissue manipulation methods that incorporate the recited anchors, such as the gastric reduction procedures described in the specification. (See paragraphs 0060 to 0065, and Figures 7A-E).

In contrast, the "umbrella-like elements" described in the King et al. patent include a "sliding sleeve 94" and a "distal hub 84" that are "designed to lock securely together in opposed, facing relationship by means of an internal, central, male-female mechanism (note particularly FIG. 11)." (King et al., col. 7, lines 4-7). Accordingly, the umbrella-like

elements described in the King et al. patent do not have a "fastener" that is "translatably coupled" to a suture. In fact, by teaching a locking mechanism that is not adjustable, but that instead is designed to "click" into place, (see col. 10, lines 1-5), the King et al. patent effectively teaches away from the recited translatable fastener.

The amended claims are therefore patentable over the King et al. patent. Reconsideration of the claim rejections and allowance of the claims are respectfully requested.


CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No.

USGINZ02111. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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